

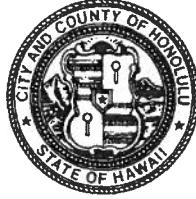
DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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March 18, 2014

The Honorable Carol Fukunaga, Chair
and Members
Committee on Public Safety
and Economic Development
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

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Dear Chair Fukunaga and Councilmembers:

We believe the intentions of Bill 16 (2014), Condominiums, are: 1) to limit the conversion of hotel rooms to individually owned residential units; and 2) to protect the employees of hotels whose guest rooms are about to be converted. We share some of the authors' concerns but believe this current version is flawed in a number of areas and needs significant work to make it enforceable.

We respectfully ask that Bill 16 be deferred until representatives from the Department of Planning and Permitting (DPP) and Corporation Counsel can work with Council staff to deal with these issues. Among our specific concerns are the following:

Limit the Conversion of Hotel Rooms:

1. Why does a partial conversion trigger a major land use permit? And is that action necessary to achieve the purposes of the bill?
2. Why is a conversion of 20 percent of the units sufficient to deny the provision of a permit to convert? Why not 30 percent or 51 percent or 10 percent? We are not aware of any industry or economic analysis that indicates a threshold or even a range after which the effects are significant and negative to the community as a whole. The prohibited conversion rate appears to be arbitrary and open to legal challenge.
3. Does the provision on waivers which gives the authority to waive requirements to a collective bargaining agreement open the Pandora's Box? This is certainly not permitted under the Charter as waiver authority for Chapter 21 is specifically assigned to the Director of DPP. Are we sure we want to open up the waiver of provisions to action outside the authority of the City?

4. Is the inclusion of "ownership" within the Land Use Ordinance (LUO), which is a land use control ordinance, another kind of Pandora's Box issues? Over the years, the Council and the Administration have been able to confine the LUO to primarily land use issues. This bill changes the paradigm.

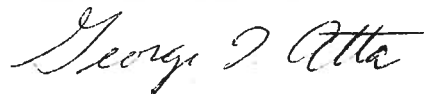
Protect the Employees

1. Can the LUO be used to enforce labor conditions? Although we understand the intent of Article 2, this inclusion is the most troublesome.
2. The LUO is a land use regulation and its enforcement is the responsibility of the DPP. DPP has neither the skills, information base, nor the procedures to follow through on these labor related conditions. We note that enforcement is not yet assigned by the bill, but if the enforcement responsibility is assigned elsewhere, we expect that confusion over authority will be problematic.
3. Is this Article of the bill more the responsibility of the Department of Labor and therefore a State function?

Finally, we recognize that rule making will be necessary for the implementation of Bill 16, but we feel some work is necessary to clean up policy ambiguities before it reaches the step of rule making. Most specifically, enforcement is weak and unclear when it comes to Article 2, the assignment of responsibility should be wrestled with now and not left to a subsequent resolution, the purview of the LUO needs to be articulated with respect to labor issues.

We request that this bill be deferred till the Council and the Administration can have the time to work through these and other issues.

Very truly yours,



George I. Atta, FAICP, Director
Department of Planning and Permitting